IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 16379 of 2007(Y)

PETITIONER:

1. ABDUL NAZER,
   S/O E.K.SAYED MUHAMMED, EDAVANAKKATT HOUSE,
   KODUNGALLOOR.

2. ABDUL GAFOOR, S/O.E.K.SAYED MUHAMMED,
   EDAVANAKKATT HOUSE, METHALA, KODUNGALLOOR.

BY ADV. SRI.K.K.JAYASOORIAN
SRI.A.A.ZIYAD RAHMAN

RESPONDENTS:

1. M/S FEDERAL BANK LTD.,
   REGIONAL OFFICE, MISSION QUARTERS, THRISSUR-1,
   REPRESENTED BY IT'S AUTHORISED OFFICER.

2. MOHAMMED SHERIFF, S/O SHAMSUDDIN,
   EDAVANAKKATTU HOUSE, "MAHIMA" PUTHIYA ROAD,
   KARA-P.O., KODUNGALLOOR.

3. SHAMSUDDEEN, S/O.E.K.SAYED MUHAMMED,
   EDAVANKKATTU HOUSE, "MAHIMA", PUTHIYA ROAD,
   KARA P.O., KODUNGALLOOR.

4. MOHAMMED SHEGIN E.S.,
   S/O E.S.SHAMSUDDIN, EDAVANAKKATTU HOUSE,
   "MAHIMA" PUTHIYA ROAD, KARA-P.O.,
   KODUNGALLUR.

5. NADEERA SULAIMAN,
   W/O SULAIMAN, CHELLIPADATH HOUSE,
   BRAHMAPURAM P.O., AMBALAMUGAL, ERNAKULAM.

BY ADV. SRI.V.JAYAPRADEEP, SC, FEDERAL BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16379 of 2007

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Dated this the 19th day of July, 2007

J U D G M E N T

The petitioners challenge proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. When the legal position as declared by the Supreme Court that proceedings under the Act have to be challenged in appeal before the Debts Recovery Tribunal was pointed out, the learned counsel for the petitioners submits that the petitioners had in fact filed an appeal which has been dismissed as time barred. This court has already held that by filing a writ petition under Article 226 of the Constitution of India a time barred claim cannot be resurrected. Petitioners' further contention is that now the petitioners are challenging the proceedings under the Securitisation Act on the ground of fraud played by the bank in respect of the sale proceedings. Whether there is a fraud or not, is a question of fact, for proving which

evidence is required. In proceedings under Article 226 of the Constitution, that is not ordinarily possible. For all the above reasons, I am not inclined to entertain this writ petition and accordingly, the writ petition is dismissed without prejudice to other remedies, if any, of the petitioners.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.